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67086-003**REMARKS**

Claims 1, 9, 15 and 17 are objected to for several informalities. These claims have been amended to address the issues presented by the Examiner.

Claims 15 and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kusel (U.S. Patent No 3,704,005). Kusel does not disclose a rail barricade including plurality of vertical spokes having a substantially circular cross section. Kusel discloses that the spokes 20 each have a substantially square cross section (also shown in Figure 2). Kusel does not disclose spokes having a circular cross section as claimed, and Applicant requests that the rejection be withdrawn.

Claims 1-4, 7 and 11-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bilby (U.S. Patent No. 6,199,833) in view of Doublet (U.S. Patent No. 4,646,807). The Examiner admits that Bilby does not teach feet attached to a bottom of a first and second vertical rail. The Examiner states that Doublet teaches feet 8 and 9 of a rail barrier that are attached at the bottom of vertical rails 3 and 4 of a frame 2, and it would be obvious to modify Bilby to attach pivotal feet at the bottom of the rails 18 and 20. Applicant respectfully disagrees.

The claims have been amended to recite that the rail barricade includes at least two hooks having an opening located on a common side of the rail barricade. Bilby does not teach any hooks. The Examiner states that Doublet teaches at least one hook 15 and 16 attached to the safety device 1. As shown in Figure 1, the hooks 15 and 16 include opening located on opposing sides of the safety device 1. Neither reference teaches a rail barricade including at least two hooks each having an opening located on a common side of a rail barricade. Therefore, even if Doublet is combined with Bilby, the combination does not teach the claimed features. Claims 1-4, 7 and 11-14 are not obvious, and Applicant requests that the rejection be withdrawn.

Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bilby in view of Doublet and Lavine (U.S. Patent No. 5,186,197). Claim 5 depends on patentable independent claim 1 and is allowable for the reasons set forth above. Adding Lavine to the combination of Bilby and Doublet still does not teach, suggest or disclose the claimed invention because none of the references a rail barricade including at least two hooks each having an opening located on a common side of a rail barricade. The claimed invention is not obvious, and Applicant requests that the rejection be withdrawn.

Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bilby in view of Doublet and Christensen (U.S. Patent No. 6,676,113). Claim 6 depends on patentable

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independent claim 1 and is allowable for the reasons set forth above. Adding Christensen to the combination of Bilby and Doublet still does not teach, suggest or disclose the claimed invention because none of the references teach a rail barricade including at least two hooks each having an opening located on a common side of a rail barricade. The claimed invention is not obvious, and Applicant requests that the rejection be withdrawn.

Claims 8-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bilby in view of Doublet and Shull (U.S. Patent No. 4,358,214). Claims 8-10 depend on patentable independent claim 1 and are allowable for the reasons set forth above. Adding Shull to the combination of Bilby and Doublet still does not teach, suggest or disclose the claimed invention because none of the references teach a rail barricade including at least two hooks each having an opening located on a common side of a rail barricade. The claimed invention is not obvious, and Applicant requests that the rejection be withdrawn.

Claims 17-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bilby in view of Doublet and Kusel. None of the references teach a rail barricade including at least two hooks each having an opening located on a common side of a rail barricade. Therefore, even if Doublet and Kusel are combined with Bilby, the combination does not teach the claimed invention. Claims 17-19 are not obvious, and Applicant requests that the rejection be withdrawn.

Thus, claims 1-33 are in condition for allowance. The Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., \$108.00 for two additional claims in excess of twenty. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,
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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (703) 872-9306 on November 29, 2004.


Amy Spaulding